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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4517 of 2001

to

FIRST APPEALNo 4521 of 2001
with
Civil Applications Nos.11057 of 2001 to 11061 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UNITED INDIA INSURANCE CO LTD.

Versus

SITABEN WD/O TEJMAL VIHABHAI DESAI (RABARI)

Appearance:

1. First Appeal No. 4517 of 2001

MR PV NANAVATI for Petitioner No. 1

MR VIBHUTI NANAVATI for Petitioner No. 1

MR SANDIP C SHAH for Respondent No. 1

..... for Respondents No. 2-5

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE H.H.MEHTA

Date of decision: 19/12/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

1. Heard learned advocate, P.V. Nanavati, for the appellant and learned advocate, Mr. Sandip C. Shah, for original claimant (respondent No.1) in First Appeal No.4517 of 2001. In First Appeals Nos.4518 of 2001 to 4521 of 2001, the original claimants-respondents are duly served. The learned advocate, Mr. P.V. Nanavati, for the appellant, seeks permission to delete other respondents, except the original claimants, in all the appeals. Permission to delete other respondents, except the original claimants, in all the appeals is granted.

2. All the appeals are admitted. Learned advocate Mr. Sandip C. Shah waives service of notice of admission on behalf of the original claimant in First Appeal No.4517 of 2001. At the joint request of the learned advocates for the parties, these appeals are taken up for hearing today.

3. These are the appeals under Section 173 of the Motor Vehicles Act, 1988 at the instance of the Insurance Company challenging the common judgment and award dated February 12, 2001, passed by the Motor Accident Claims Tribunal (Aux.), Sabarkantha, at Himatnagar, in M.A.C. Petitions Nos.856/91, 43/92, 68/92, 95/92 and 548/92.

4. The learned counsel for the appellant has pressed these appeals only on the ground of interest awarded by the Tribunal on the amount of compensation determined as payable.

5. The Tribunal in fact has awarded interest at the rate of 12% per annum on the compensation determined by it from the date of the claim petition till realization. It is in the context of this rate of interest that we are required to examine the present appeal.

6. The question of interest is no doubt within the

discretionary jurisdiction of the Tribunal, but in the light of various decisions of this Court, the rate of interest has to be tempered with the economic reality prevailing in the country and the rates of interest prevailing generally in the market from time to time.

7. After considering various relevant and pertinent factors, this Court has in a number of decisions adopted a slab system of awarding interest, particularly where the interest awarded by the Tribunal has not been so exorbitant so as to shock the conscience of the court. Thus, on the facts and circumstances of the case and in consonance with the earlier decisions of this Court, we hold and direct that the original claimant shall be entitled to interest on the amount of compensation awarded by the Tribunal under the impugned award at the rate of 12% per annum from the date of claim petition upto 31st December 1999 and at the rate of 9% thereafter till realisation.

8. The common judgment and award are modified only to the aforesaid extent and the rest of the award stands confirmed.

9. The
the aforesaid extent with no order as to costs. Decree be drawn accordingly. Direct service is permitted. The appellant-Insurance Company is directed to deposit as per the rate of interest awarded in these appeals within four weeks from today.

10. In the First Appeals wherein the respondents-original claimants are not represented by any advocate, it would be open for the original claimants to approach this Court and revive the appeals if they feel so aggrieved.

11. Since the First Appeals are disposed of, Civil Applications for stay do not survive and are disposed of with no order as to costs.

December 19, 2001 (M.H. Kadri, J.)

(H.H. Mehta, J.)
(swamy)